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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/625,141	07/23/2003	Jonathan Robert Nowitz	283108004US	8283

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EXAMINER
BLACK, LINH

ART UNIT	PAPER NUMBER
2163	

DATE MAILED: 04/11/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

PTO-90C (Rev. 10/03)

	Application No.	Applicant(s)
	10/625,141	NOWITZ ET AL.
Office Action Summary	Examiner	Art Unit	
	LINH BLACK	2163	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>06 March 2006</u>.

2a)☐ This action is **FINAL.**   2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) <u>28-53</u> is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) <u>28-53</u> is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on <u>08 July 2005</u> is/are: a)☒ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All   b)☐ Some * c)☐ None of:

        1.☐ Certified copies of the priority documents have been received.

        2.☐ Certified copies of the priority documents have been received in Application No. _____.

        3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☒ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
    Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____ .

5)☐ Notice of Informal Patent Application (PTO-152)

6)☐ Other: _____.

DETAILED ACTION

This communication is in response to the document dated 3/6/2006. Claims 28-52 are

pending in the application. Claims 28, 40 and 52 are independent claims.

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of
matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the
conditions and requirements of this title.

Claim 52 is rejected under 35 U.S.C. 101 because the claimed invention is directed to

non-statutory subject matter. Regarding claim 52, the claim recites a data structure for

associating metadata with a media entity, but fails to recite that a data structure on a

computer readable medium or hard disk, a requirement for compliance with the

provisions of 35 U.S.C. § 101 in view of the Interim Guidelines for Examination of Patent

Applications for Patent Subject Matter Eligibility, published on 26 October 2005, which

can be found at

<http://www.uspto.gov/web/offices/pac/dapp/opla/preognotice/guidelines101_20051026.

pdf>, particularly with respect to ANNEX IV Computer-Related Nonstatutory Subject

Matter, beginning on page 50. For a data structure per se, it must be tangibly embodied

or stored on a computer readable medium in order to be operative.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 28-53 are rejected under 35 U.S.C. 103(a) as being unpatentable over

Perkes (US 20030110503), and further in view of Omoigui (US 20030126136).

As per claim 28, 53, Perkes teaches

identifying a first media entity located within a data store – paragraphs 0012, 0035,

0043-0045, 0082; fig. 3.

In the specification, page 13, paragraph 0038, Applicants teach "a

data store map is defined as information used to define levels and

sublevels of a located data store as a hierarchical structure such as

a directory tree."

receiving user input that identifies the first media entity as belonging to a distinguished

category – pars. 0044, 0066, 0152, 0154; figs. 16-17; pars. 0262-0265.

receiving user input designating a portion of a map of the data store containing the first

media entity as corresponding to the distinguished category – pars. 0044-0045, 0063-

0067, 0152.

attributing metadata to the first media entity indicating that it belongs to the

distinguished category – pars. 0012-0014, 0043, 0228, 0264.

There is no definition of the limitation "attributing" in the specification. However, the Examiner interprets the limitation "attributing" as assigning/designating.

automatically identifying a second media entity located within the designated portion of the map – pars. 0070, 0228, 0262-0265, 0275, 0297.

based upon the location of the second media entity within the designated portion of the map, automatically attributing metadata to the second media entity indicating that it belongs to the distinguished category – pars. 0012-0013, 0044-0045, 0228.

However, Omigui further improves Perkes' teaching of the map or a hierarchical structure of content category by teaching how objects are categorized and utilized – pars. 0291, 0316, 0499, 0579, 0681, 0683; XML data is passed to the appropriate resource – pars. 0274, 0586 (XML Web Service). Thus, it would have been obvious to one of ordinary skill in the art at the time of the invention to combine Perke's teaching and Omigui's teaching to better periodically categorize objects in searchable data storages in order to help users search for certain subjects quicker and thus, better search results.

As per claim 29, Perke does not explicitly disclose crawling a web site. Omigui teaches crawling web sites – pars. 0586, 0606, 0678, 0701. Thus, it would have been obvious to one of ordinary skill in the art at the time of the invention to combine Perke's teaching and Omigui's teaching to better periodically crawling web sites to better categorize objects to provide quicker searches.

As per claim 30, Perke does not explicitly disclose examining a path of a URI at which the first media entity is identified. Omigui teaches examining a path of a URI at which the first media entity is identified – pars. 0311, 0316-0317. Thus, it would have been obvious to one of ordinary skill in the art at the time of the invention to combine Perke's teaching and Omigui's teaching in order to refer to objects on the Web, access, and share or describe them.

As per claim 31, Perkes teaches examining a web site name at which the first media entity is identified – pars. 0013, 0078, 0250, 0288.

As per claim 32, Perke does not explicitly disclose parsing a file name of the first or second media entity. Omigui teaches a parser – pars. 0156, 0249, 0609, 0664. Thus, it would have been obvious to one of ordinary skill in the art at the time of the invention to combine Perke's teaching and Omigui's teaching in order to help break objects/items/documents etc... into components to better be formatted and/or processed.

As per claim 33, Perkes teaches metadata descriptor of a media object – pars. 0013-0014, 0043, 0229, 0264; content guilde – par. 0065 ; metadata database – par. 0246. However, Omigui further improves Perkes's teaching of metadata dictionary by teaching metadata directory – par. 0189; storing and managing metadata – pars 0268-0269, 0361-0362. Thus, it would have been obvious to one of ordinary skill in the art at the

time of the invention to combine Perke's teaching and Omigui's teaching to better

storing and manage metadata in order to provide users faster searching results.

The Merriam-Webster's Collegiate Dictionary, Tenth Edition defines "dictionary"

as a list (as of items of data or words) stored in a computer for reference (as for

information retrieval or word processing).

As per claim 34, Perkes teaches prompting an operator to enter metadata based upon

the distinguished category – par. 0065.

As per claim 35, Perkes does not explicity disclose extracting metadata from the first

media entity. Omigui teaches metadata and semantics are extracted from unstructured

– par. 0341, 0613, 0766, 0978. Thus, it would have been obvious to one of ordinary

skill in the art at the time of the invention to combine Perke's teaching and Omigui's

teaching to better categorize media objects based on the extracted metadata which help

provide faster search results.

As per claim 36, Perkes teaches comparing the specified metadata with known good

metadata – pars. 0044, 0240.

As per claim 37, Perkes teaches checking the validity of the identified media entities –

par. 0179.

As per claim 38, Perkes teaches wherein the media entities are selected from the group consisting of text, audio, video, and images – pars. 0037,0077, 0181, 0247.

As per claim 39, Perkes teaches wherein the metadata conforms to one or more of a Dublin Core standard, an MPEG standard, or an XML standard – par. 0271.

Claims 40-51 claim the same subject matter as of claims 1-39 and are rejected based on the same ground of rejection.

As per claim 52, Perkes teaches

a category identifying one or more media entities; metadata that applies to each media entity in the category - paragraphs 0012, 0044-0045, 0066, 0074, 0082.

one or more rules for automatically identifying a media entity belonging to the category - pars. 0012-0014, 0043-0045, 0165, 0228-0229, 0250, 0264.

such that the contents of the data structure **may** be used to automatically associate the metadata with identified media entities belonging to the category – pars. 0012-0014, 0043, 0228, 0264. However, the limitation "may" renders the limitation "such that....to the category" limitless because the contents of the data structure may also not be used to automatically associate the metadata ...to the category.

Response to Arguments

Applicant's arguments with respect to claims 28-52 have been considered but are
moot in view of the new ground(s) of rejection.

Conclusion

Any inquiry concerning this communication or earlier communications from the
examiner should be directed to LINH BLACK whose telephone number is 571-272-
4106. The examiner can normally be reached on 8am - 5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's
supervisor, Don Wong can be reached on 571-272-1834. The fax phone number for the
organization where this application or proceeding is assigned is 571-273-8300.
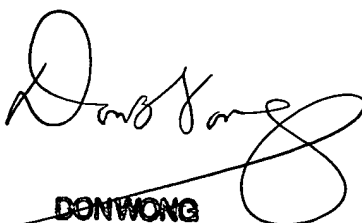
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Business Center (EBC) at 866-217-9197 (toll-free).

LINH BLACK
Examiner
Art Unit 2163

March 28, 2006

DON WONG
SUPERVISORY PATENT EXAMINER